

2018 CHARTER REVIEW COMMISSION MINUTES

August 22, 2018

Roll Call

Present: Vince DeLeonardis, Chairman
Deputy Commissioner Michael Sharp, Vice Chairman
Deputy Commissioner John Daley, Secretary
Commissioner John Franck
Commissioner Michele Madigan
Deputy Commissioner Maire Masterson
Deputy Mayor Lisa Shields

Absent: Commissioner Peter Martin
Commissioner Skip Scirocco
Deputy Commissioner Joseph O'Neill

Recording of Proceeding

The proceedings of this meeting were recorded for the benefit of the public and the secretary. Because the minutes are not a verbatim record of the proceeding, the minutes are not a word-for-word transcript.

Call to Order

Chairman DeLeonardis called the meeting to order at 1:11PM. Also in attendance was Attorney Robert McLaughlin.

Public Comment

Chairman DeLeonardis opened the floor up for public comment.

Bonnie Sellers, Saratoga Springs, asked if any not-for-profit organizations would be called out in the Charter. Chairman DeLeonardis said that no organizations will be named in the charter but the sustainability concepts will be included.

Remegia Foy, former Commissioner of Finance commented on the Charter. This Commission was formed just a few months after the electorate rejected the proposal to change the form of City government. The Commission was chartered with improving the efficiency of our form of government. This Commission is composed of members who are working within the system and are familiar with its ambiguities and have worked diligently in order to correct it. She can support all changes except the addition of the 2 At-Large members who would serve without portfolio simply voting yes or no on all issues including the budget. What happens to accountability, responsibility and transparency? Adding 2 Council members to perhaps decide to run for office at a later date is contrary to the Commission form of government. Although this may be designed to placate the opposition, it is a reckless and shortsighted proposal and should be dropped. The City Council is not the training ground for the ill prepared. The last item for mention is the poll which is very, very enlightening. 75% said the city is going in the right direction yet 49% wanted a change in government verses 42% who didn't. If 75% said the City is going in the right direction why make any changes in the system. This result tells her that 49% want change for the sake of change. Please consider very carefully the addition of the 2 free

floating apexes who would be members of the City Council. They would have no department to worry about and is contrary to the basic idea of the commission system. Chairman DeLeonardis thanked Ms. Foy and advised that once the meeting is opened for discussion, this will be the number one topic. After last night's Forum and the results of the Poll, which will be put on the website for everyone to view, 75% did indicate that Saratoga is going in the right direction, it was not an indication that they were for change. The Poll showed 49% in support for enlarging the Council to the 7 members verses 42% who were opposed to enlarging it. Ms. Foy said that she isn't sure the people who are in favor of enlarging the Council understand this form of government and just want some kind of change. Chairman DeLeonardis advised that one of the questions of the poll which was not previously discussed was "How closely do you follow City Government?" and out of the 250 responses (the number of actual calls was far larger) which the polling company indicated would be a valid representation of the community, 69% said that they follow it closely verses the 39% who don't. The public may not know the details of the Commission form of government but the public indicated that it does follow what is happening. He agreed that Ms. Foy had a good point that there are concerns on how much you stretch the Council but the proposal that is on the table, and yet to be decided, does not abandon the conceptual idea of the Commission form of government. It maintains the core group of Commissioners with legislative and administrative duties while simply providing the opportunity for 2 members of the community to have a voice on legislative matters. James Martinez, Saratoga Springs, asked if the calls were to land line phones or cell phones. Deputy Sharp indicated that both were called – 84% land 16% cell. Chairman DeLeonardis said that it was predominantly land lines which provides some indication as to who was responding to the poll. There were more 65 and older than younger individuals and they were in favor of enlarging City Council to 7 members, not a clear majority but a majority none the less were in favor. Deputy Sharp provided that no majority of any group opposed the addition. Even the split between men and women 58% of women were for it and 48% of men. The poll will be on the website for all to review. Deputy Shields asked if there was a question included in the poll about voting on the last Charter. Deputy Sharp indicated that there was and it was pretty even. In 2017 38% of those polled voted for the last Charter and 41% against. Commissioner Franck asked if the question related to the expansion of the Commission or just the vote for the last Charter effort. Deputy Sharp said it was just the last charter vote. Chairman DeLeonardis said that if there had been a greater opportunity to get more cell phone responses, making some assumptions that the younger population uses cell phones as their primary phone, the response for support may have been greater. Deputy Sharp said that for the 18-44 it was 56% for and 44% against; 45-54 was 75% for and 19% against which was the largest spread of any of the questions asked. Chairman DeLeonardis commented that in general looking at the graph, the 18-54 supported it by quite a large margin. Deputy Sharp said that the age group of 55-64 was a coin flip of 42% for and 44% against; and 65+ was 42% for and 51% against. The poll considers a 6% margin for error. The age group of 18-44 had a 20+ points of differential; 45 to 54 was upwards of 50% differential. Chairman DeLeonardis said so between 18-54 (younger people) supported it by a large margin and the others opposed it by a small margin. Ms. Foy said that the length of time in Saratoga was not analyzed – those being here for 50 years or 40 years verses those who just came into the community. Chairman DeLeonardis said that this was a question. Deputy Sharp said that the breakdown for that was: less than 9 years; 10-15 years; 15 plus and a native bucket. For the less than 9 years it was 61% for and 36% opposed; the 10-15 years 56% support and 38% opposed; 15 plus years was 42% support and 46% opposed. Ms. Foy pointed out that those who have come within the last 10 or 15 years have a different perspective on City government than we who have been here all our lives. Deputy Sharp pointed out that the differential for that bucket is very slim – 42% verses 46%. Ms. Foy commented that an attendee of last night's meeting who was

from California wanted to bring those ideas here and she is opposed to that. Deputy Sharp pointed out that the native response, people who lived here all their lives, was 57% for and 39% opposed. Commissioner Madigan said that when the idea first came up she thought it was interesting but was not in favor of it. After more thought and discussions, she is all for it. People will come back with a new charter proposal next year so if this passes and we have grown the Council to 2 more At-Large members, it may address the previous complaint that it is too hard to run for office. They are not junior members and while they are not running a department, they have full legislative powers. Looking at the data and feedback from the last Commission she believes this pushes the argument for a change in government away from the people and they will see that this Charter is responsive to their concerns while maintaining the Commission form of government. Ms. Foy disagreed with the concept that the ability to run is too hard. It was very easy when she was running. Commissioner Franck said that was then and this is now. Things have changed and he believes that people will be running for these seats and there will be primaries for them. The last vote failed by 10 votes. Previous efforts failed across multiple districts and the last effort was 50-50. Portland, Oregon has a Commission form of government and they have an Ombudsman. Adding additional members is a novel idea for Saratoga but not novel overall. He is going to vote yes with or without the additional members but without the addition, there is nothing to get the public interested. No one cares about the changes that are proposed. They care about the Council not being tone deaf and listening to both sides. In his experience the number one argument was having a full-time job and the ability to run for office. The landscape of officials with W2 jobs is non-existent. Everyone was either in business for themselves or retired. Mr. Martinez asked about the litmus test for the 2 At-Large members? If they don't have a department to manage, at the end of the cycle it is a personality test. Deputy Sharp agreed and said that people will be taking issues that are not being addressed and bringing them forward which allows for flexibility and responsiveness. Commissioner Madigan said that this is her 4th term and her kids are grown now but she is now getting ready to enter the workforce and the notion of holding this office and working is overwhelming. The At-Large will allow for more people to get involved. You have to have the luxury of a flexible schedule to do this job. It doesn't mean you can't own your own business or have another job but you have to have the flexibility. Commissioner Franck added that most self-employed office holders all work or worked within a block of City Hall. Chairman DeLeonardis noted that for the purposes of the meeting, we are in the discussion portion of the meeting and that the public comment has been closed. He noted that this is has not been a debate with the public.

End of public comment.

Discussion

Chairman DeLeonardis stated he agreed with Commissioner Madigan and that he has gone back and forth on the issue of adding the 2 At-Large members. When Commissioner Franck first introduced the idea, he did not immediately embrace the concept of At-Large members but this compliments not abandons, the concept of the Commission form of government. There is no pure form of the Commission form of government as Commissioner Franck pointed out. The inclusion of the 2 additional members maintains our Commission form of government while addressing valid concerns. The 2017 effort failed by a close margin and brought up some issues voiced by some of the people which came through enough to say that a change isn't needed but there are things that need to be looked at. The three things that he heard most loudly from the prior effort are: 1) difficult to run for office; 2) need for increase of professionalism by hiring a City Manager. We don't agree with that but we are addressing professionalism by adding the

Deputy qualifications and providing certain functions and providing separate sections like HR, IT and Risk and Safety; and 3) the dysfunction of City Council. If you look at past meetings, this Council is working and is not dysfunctional and deflates that argument. Dysfunction is not an argument about the form of government but rather it is associated with who you put in the form of government. He is inclined to support the additional members and time will have to play out to see if this was a good idea or not but to know the functional concepts about the powers as legislators, it can be successful. It will certainly enlarge the ability for the public to participate in local government. He opened the discussion up to the members on 1) the addition of 2 At-Large members and 2) if they should be Supervisors. Deputy Sharp said that last year there were 2 groups and one was just against the form of government but the other just had some issues with the way it is. This document gives people the best of. In terms of expansion, looking at the economy the people in their 20's, 30's and even 40's, are now working two and three jobs just to live. Expanding will allow some of these people, based on their circumstances who are currently unable to run, an opportunity and a voice. He is in favor of this and it allow diversity at the table that just isn't able to happen now. In regards to the County Supervisors as a member at large, they already have a job and this could bring them to be at odds so he is not in favor of that. Deputy Daley said he has been very vocal about the Supervisors being the At-Large members but after the poll and listening to the public, he is going to back off that position. He agreed that it makes sense to have the expansion for a number of reasons but the biggest one he keeps coming back to is that this is a check or safety valve of the fish bowl that City Hall can become. We are fortunate right now because we have a Council that is working very well together but that has not always been the case. Commissioner Franck said that having the Supervisors also fill the At-Large role does not solve the problem of running for office. It is not an expansion of City Government because they are already at the table. Saratoga people are very interested in politics. It saddens me to make this change but if its not in here, sustainability of the Commission form of government is questionable. This is different and novel and that's what Saratoga is. I'll vote for this. Deputy Masterson said that Saratoga is a small close-knit city with big ideas and adding these members will tell the public that we're listening to what happened last time. She is a member of the Leadership Board and many of them are in leadership roles but can't run. Chairman DeLeonardis said that part of his struggle was he liked the idea of the expansion but not if they were going to be the Supervisors because to Commissioner Franck's point, it didn't answer the issue. He is getting a very clear idea that the Commission is in support of the 7 members and the members not being Supervisors. The previous idea of the Mayor holding a supervisor position also, which is off the table, the poll is pretty clear that they do not want the County Supervisors to be the At-Large Members. What is still not clear is the language that is currently in the Charter that says a Supervisor can also be a Commissioner so the question is – should that language remove the option for the Supervisors to hold dual offices? Deputy Daley thought that the Public Officer's Law precluded Public Officers from holding dual offices. Deputy Daley said to avoid confusion, make the At-Large separate. Chairman DeLeonardis asked Attorney McLaughlin if he knew if this was true? Attorney McLaughlin said he was not aware of this but he will check. He sees no reason why you cannot preclude this in the Charter. Commissioner Franck said that adding the 2 extra seats will lighten the recusal necessity. A brief discussion ensued and Attorney McLaughlin will provide an opinion by Friday. Deputy Shields said that she is not in favor of the additional members. She voted for the Charter change in 2017 because coming from the corporate world and her experience as the Mayor's Assistant, she was looking for leadership and that's why she voted for it. Now being in the Mayor's office in a different capacity & a different set of Council members, she is seeing things work well. There are still challenges and she may lean towards a different form in the future, but the changes proposed here are good. Her concern by including the additional members will cause a

no vote, but based on the polling that may not be true, but will this fail and all the great changes we have made will not be put in place? I am still going to vote yes. Chairman DeLeonardis said polling indicated dead even. There are some who are for it and some against and some who don't care because it is a fairly new idea, but is up to the Commission to educate the public on the document. Deputy Shields asked if there was enough time to educate and Chairman DeLeonardis said yes, but we have to do it well. Deputy Shields asked if those who previously looked at the Council as the 5 headed monster will now view it as just a 7 headed monster? We are all working well, and even through an emergency, so it clearly can work. I'm not comfortable that it is the right kind of change right now and the changes we have made are really good changes. Deputy Sharp said that the last vote was 10 votes and his hope is that those people continue to support this and those who were opposed, will never come along but those that wanted the ability to run for government hopefully this will sway them to vote for this and he looks forward to getting on the road and talking to anyone and everyone who wants to hear Vince talk about what is being proposed. Commissioner Franck said that he doesn't think that those that voted no will vote no this time because of this. For the Mayor's office he understands that 2 additional people at the table may make it harder to control but he believes those that voted yes will vote yes this time because of the addition. If we don't put this in, he is doubtful that this will pass. Deputy Masterson said that this is something that will get people to pay attention. Saratoga is growing in ideas, special events are growing and adding the 2 people will give the public the ear. They will be listening to the Community and that is something the Council won't have. She believes this strengthens us. She can see some turning it into a 7 headed monster but she hopes not. It depends who is at the table. This will be a voice for the people. Commissioner Madigan said that she agreed and that this is one of the major changes being put out in the proposal. Commissioner Franck said that this tells the people that we heard you. Deputy Shields said that there have been operational efficiencies that are needed. Deputy Masterson said she agreed but the people won't be excited about that. They don't care. Commissioner Madigan said that the preamble that Chairman DeLeonardis delivered at the Forum last night should be the message used in the education efforts. It needs to be part of the mailing to the residents. It shows the changes, thought and hard work that has been put into this document. Commissioner Franck asked if we had to mail the Charter document to the public? Attorney McLaughlin said that the document needs to be provided to the City Clerk and the County for balloting but maybe not mailed to the public. Commissioner Franck said he doesn't want to mail the Charter, people don't care. He would rather send a positive message. A discussion continued about the messaging and how to best accomplish it. Attorney McLaughlin said that you have to publish and provide notice. You can put a notice the paper and on line indicating where to find a redrafted copy of the Charter. A hard copy needs to be available for public view in some physical location because everyone doesn't have a computer. Deputy sharp said that aside from the expansion this document provides for a better public experience with City Hall. Commissioner Madigan said that good work has gone into this and Vince read it all off last night and have driven some real efficiencies in this Charter. A way to communicate all that may be with 4 mailers leading up to the vote. Deputy Masterson thanked Bonnie Sellers for her lovely words from last night. All the Commissioners agreed and thanked her. She also appreciated Matt Jones' words addressing the compressed time that this Commission has had to draft the new document and the incorporation of many ideas from the last effort. This effort is united and dispels the idea that this form of government is not working. Chairman DeLeonardis said that given the conversations at the table today, a couple of points: he will work on the language for the Supervisors not holding dual office. He had anticipated being able to provide a draft today but for obvious reasons he was unable to do that. We will be voting on this document next week. The first question is should there be a vote on individual issues or a global vote for the document

aside from Civil Service, or is there enough of a consensus that they can be included in the document. Commissioner Madigan said that she could not speak for those who weren't there but for herself she doesn't know. The individual vote on an item may be different from the document as a whole. She wants to be able to have everyone have the ability to vote on the big issues. Deputy Shields believes that she could support the document as a whole and would vote yes. Commissioner Madigan clarified that a vote could be "yes" with a "but". Deputy Shields said that she wanted a vote on implementation of the provisions as a pull out. Chairman DeLeonardis said we have a quorum and of the members that are here, 6 out of 7 support the At-Large addition, the At-Large not the County Supervisors and that no one can hold a dual office. Based on that if there were a vote today, it would pass but we recognize that three members are absent. Commissioner Franck said to vote on the document as a whole. Deputy Sharp said that during the vote, the member can verbalize what ever feelings they may have and that will be captured. Chairman DeLeonardis expressed his hope for a unanimous vote and Commissioner Madigan said there are no unresolved issues and she believed that it will be. Commissioner Franck said that the people were consulted for the big issues before a vote and that was a good thing. Chairman DeLeonardis said that for some other issues that took place between the last meeting and today, he received emails from John Kaufman and Jane Weihe separately, (copies to be provided). They both supported the expansion to 7 members and the appointments being on advice and consent of Council. An email from Jim Martinez was also received and he raised a comment about the Building and Code enforcement language. Chairman DeLeonardis read both sections after which it was pointed out the Building has responsibility from permit to CO and Code has the responsibility for everything after. There is no clear direction where overlap occurs. Deputy Shield said that this language gives Building and Code the same authorities but puts the focus on the functions, Building is development and construction and everything outside of that is enforcement. Deputy Daley said it is an oddity here but it is in response to our form of government. Discussion continued to explain the thought process behind the language and intent of the sections. Mr. Martinez pointed out that there is a need for an exchange of information between the departments. Chairman DeLeonardis advised that currently there is an Enforcement Committee which meets regularly and they do exchange information for coordination of efforts. There is more detail in the City Code regarding roles and responsibilities and if an inefficiency is identified and changes can be made via local law to the code.

Chairman DeLeonardis said that there are two more issues to address: Sustainability is currently addressed outside of the Charter but is there any interest to beef it up in the Charter? Deputy Sharp suggested language be added that is similar to the section that addresses the Beautification function and put it under Open Space in the Mayor's section. Commissioner Madigan said that it should be added to the Preamble. A discussion ensued and sustainability is a thread that runs throughout all City documents and the Preamble will address it.

Chairman DeLeonardis said that the other issue is Civil Service. Commissioner Madigan said that she is not in favor of sending it to the County. All agreed to remove that as an option. Chairman DeLeonardis said that there are now two remaining options: 1) Personnel Director located in City Hall and 2) leave it as it is. Historically there have been efficiency issues in the past. For 8 months and some days we have had a new Civil Service person and an HR person. The Commission has responded to the request for more frequent meetings, Corissa has been responsive, this Charter takes HR out of the Mayor's department which was a previous issue with the Civil Service Commission, but are these changes enough to say for the time being is it enough to keep it the same or does it still need to be change? Attorney McLaughlin said that what he found was that the Civil Service Commission has an appointee who corresponds with

the City on a regular basis since the Commission only meets on a monthly basis. The City usually has an HR director which is a city employee that coordinates with Civil Service and all cities polled had a mayoral form of government. A Personnel Officer would be a Public Officer, appointed by the Mayor but serving for a term of 6 years and the reality of termination is difficult unless there is a crime committed which is some kind of felony, and it takes a long time. If you want to keep the Civil Service as it is, perhaps some kind of restrictions can be included in the Charter. He will look into it and provide information by Friday. Commissioner Madigan asked if the Personnel Director is appointed by the Mayor, can that person be HR and Civil Service? Attorney McLaughlin said no they are separate. Albany has an HR director appointed by the Mayor who liaisons with the Commission on a daily basis and it seems to work well. Chairman DeLeonardis pointed out that Civil Service cannot be controlled in any way. Attorney McLaughlin said that a Personnel Officer becomes the Commission. Commissioner Madigan said that you would still need an HR director and a Personnel Officer. Commissioner Franck said that a Personnel Director is asking for a big change. DPW and DPS utilize the Commission the most. The discussion continued and Chairman DeLeonardis said that after all that was said, the decision is not to change this and Attorney McLaughlin will look into what can be put into the Charter to strengthen where available.

The next meeting is on Tuesday, August 28th at 3:00 PM. Trish will send an email with the location once it's identified. The Charter will be voted on at that meeting. Commissioner Franck and Deputy Masterson will not be available for the meeting. They will video conference in to cast their vote.

Chairman DeLeonardis opened the floor public comment.

Public Comment

Bonnie Sellers, Saratoga Springs commented that Joanne Yepsen was encouraged to be both a Supervisor and a Council member but did not take the opportunity. She didn't know when that was made a part of the Charter but if you look it up you'll see how long that has been an option which no one has taken.

End of public comment.

Chairman DeLeonardis adjourned the meeting at 3:13 PM.

Approval of Minutes. NOTE: No minutes available for vote.

Respectfully submitted by Trish Bush.